

EXHIBIT 2

PRELIMINARY EXPERT REPORT OF STEVEN P. COLE, Ph.D.

I. INTRODUCTION

1. I have been retained by Latham & Watkins LLP and the New York Civil Liberties Union Foundation, counsel for Plaintiffs in the above-captioned matter, to determine whether voting is polarized along racial lines in the East Ramapo Central School District (“East Ramapo” or the “District”). Plaintiffs have challenged the use of the existing at-large method of electing members of the District’s Board of Education (the “Board”) on the grounds that it dilutes the voting strength of Black and Latino voters.¹ My analysis of voting patterns in East Ramapo addresses whether (a) Black voters in the District are politically cohesive; (b) Black and Latino voters are politically cohesive, such that those two groups may be considered a coalition; and (c) candidates preferred by Black or a coalition of Black and Latino voters in the District are usually defeated by candidates supported by the White majority voting as a bloc.²

II. SUMMARY OF PRELIMINARY OPINIONS

2. Based on the data and information available to me at the time of writing this report, I have reached the following preliminary opinions:

¹ The terms “Black” and “Latino” are each used in this report as they are defined by the United States Census Bureau. *See* United States Census Bureau, Glossary, Black or African American, https://www.census.gov/glossary/#term_BlackorAfricanAmerican; United States Census Bureau, Glossary, Hispanic or Latino Origin, https://www.census.gov/glossary/#term_HispanicorLatinoorigin.

² The term “White” refers to non-Hispanic single-race whites and is synonymous with the term “Non-Hispanic White Alone” as defined by the United States Census Bureau. *See* United States Census Bureau, Glossary, Non-Hispanic White Alone, https://www.census.gov/glossary/#term_Non-HispanicWhiteAlone.

3. **Black voters in East Ramapo are politically cohesive.** In all of the nine most recent Board contests, very large majorities of Black voters have preferred the same candidates for office.

4. **There is a politically cohesive coalition of Black and Latino voters in East Ramapo.** In all of the nine most recent Board contests, very large majorities of both Black and Latino voters have preferred the same candidates for office.

5. **Voting in East Ramapo is racially-polarized, such that Black voters and/or a coalition of Black and Latino voters support the same candidates and those candidates are usually defeated by the preferred candidates of White voters, who also vote as a bloc.** In all of the nine most recent contested Board elections, the preferred candidate of Black and Latino voters was defeated by candidates supported by a bloc of White voters and who received little support from minority voters. The most recent six contested elections exhibit an extreme degree of racial polarization that I have rarely seen in over 25 years of analyzing voting behavior.

6. To further test this result, I reviewed contemporaneous news sources, which indicated that White and minority-preferred candidates run as part of separate slates. These sources show that minority-preferred candidates generally run with the support of organizations advocating for increased investment in the District's public schools, and White-preferred candidates generally run with the support of organizations and leaders favoring lower taxes while maintaining support for private schools.

7. Consistent with this result, I reviewed demographic data from the New York State Education Department ("NYSED") on the student enrollment of public and private schools affiliated with the East Ramapo Central School District, which showed that over the past several years, the public schools have served a population that is approximately 90% Black and Latino

(95% non-White) and the private schools have served a population that is approximately 99% White.

8. I also analyzed voting data from polling locations within the District from the 2012 Presidential Election, an interracial contest between Barack Obama and Mitt Romney. Data from the Obama-Romney contest exhibited a high degree of racial polarization, which is consistent with data from Board elections and my opinion that voting in the District is racially-polarized.

9. **Minority-preferred candidates have not been elected to the Board.** Although members of racial minority groups have been elected to the Board, those Board members have not been the preferred candidates of Black and Latino voters. There are currently three Black members of the Board—Ms. Sabrina Charles-Pierre, Mr. Bernard Charles, Jr., and Mr. Pierre Germain. In their most recent election in May 2016, Mr. Charles and Mr. Germain received very little support from Black or Latino voters, but were able to win election by receiving a large majority of White votes. In 2015, a Latino candidate, Juan Pablo Ramirez, was elected to the Board with the support of a large majority of White votes and little support from Latino or Black voters. In 2015, Ms. Charles-Pierre won large majorities of Black and Latino voters, but lost to a White candidate who received a large majority of White votes and little support from minority votes. Ms. Charles-Pierre subsequently was appointed to fill a vacant seat while the District was being monitored by the NYSED. She later was elected as an incumbent without opposition. In 2013, all six candidates were people of color, but the weight of evidence indicates that the winning candidates, who were endorsed by the private school slate and the preferred candidates of White voters, were not minority-preferred candidates.

III. BACKGROUND AND EXPERIENCE

10. My qualifications, including a list of all publications I have authored within the past 10 years and a listing of cases in which I have served as an expert or a consultant, are set forth in my curriculum vitae, which is attached to my Declaration as Exhibit 2.

11. I am employed by Research Design Associates, Inc., a firm I co-founded, in Yorktown Heights, New York, as Director of Research. My responsibilities involve research design and implementation, and the use of statistics in data analysis. I have held the position of Director of Research since the firm's founding in 1982.

12. I am currently an Adjunct Professor in the Emory University Department of Psychology and have held this position since 1993.

13. I received a B.A. in Psychology from the University of Virginia in 1969, an M.A. in Developmental Psychology from Columbia University in 1976, and a Ph.D. in Human Experimental Psychology from Emory University in 1985. My teaching and research interests include statistics and quantitative methods, and research design.

14. I have testified at trial or by deposition regarding racially-polarized voting in the following cases brought under the Voting Rights Act: *Brooks v. Miller*, 1:90-CV-1001-RCF (N.D. Ga.); *Howard v. Comm'r of Wheeler Cty.*, No. 3:90-cv-057 (S.D. Ga.); *Askew v. City of Rome*, No. 4:93-CV-0028-HLM (N.D. Ga.); *Rural West Tennessee African American Affairs Council, Inc. v. Sundquist*, No. 2:92-cv-2407 (W.D. Tenn.); *Cousin v. McWherter*, No. 1:90-cv-339 (E.D. Tenn.); *Hines v. Hertford Cty. Bd. of Elections*, No. 2:89-cv-0062-BO (E.D.N.C.); *Gause v. Brunswick Cty.*, No. 7:93-cv-00080 (E.D.N.C.); *Burton v. City of Belle Glade*, No. 9:95-cv-8356-KLR (S.D. Fla.); *Wilson v. Mayor and Bd. of St. Francisville*, No. 3:92-cv-765-FJP (M.D. La.); *Cuthair v. Montezuma-Cortez Sch. Dist. No. RE-1*, No. 1:89-cv-964 (D. Colo.); *Moon v. Meadows*, No. 3:95-cv-942 (E.D. Va.); *Old Person v. Cooney*, No. 4:96-cv-004-PMP (D. Mont.); *Bone Shirt v.*

Hazeltine, No. 3:01-cv-3032 (D.S.D.); *Cottier v. City of Martin*, No. 5:02-cv-5021-KES (D. S.D.); and *Large v. Fremont Cty.*, No. 05-cv-270 (D. Wyo.).

15. I have been accepted by federal courts as an expert in statistical methodology and the analysis of racially-polarized voting in cases dating back to 1989. My compensation for work on this case is \$150.00 per hour.

IV. DEFINING AND MEASURING RACIALLY-POLARIZED VOTING

16. In 1982, Congress amended the Voting Rights Act to prohibit any voting practices and procedures that result in a “denial or abridgement of the right of any citizen of the United States to vote on account of race or color.”³ The Supreme Court first interpreted the “results test” implemented by those 1982 amendments in the context case of a vote dilution case in *Thornburg v. Gingles*, but by that time, the Supreme Court had “long recognized that . . . at-large voting schemes may operate to minimize or cancel out the voting strength of racial [minorities in] the voting population.”⁴ The Court explained that the “basis for this type of impairment is that where minority and majority voters consistently prefer different candidates, the majority, by virtue of its numerical superiority, will regularly defeat the choices of minority voters.”⁵ The Court further explained that at-large election systems are not necessarily illegal under the Voting Rights Act, so minority plaintiffs seeking to vindicate their voting rights “must prove that the use of a multimember electoral structure operates to minimize or cancel out their ability to elect their preferred candidates.”⁶

³ 52 U.S.C. § 10301.

⁴ 478 U.S. 30, 47 (1986) (brackets in original) (citations and internal quotation marks omitted).

⁵ *Id.* at 48 (citations omitted).

⁶ *Id.*

17. In *Gingles*, the Court established that evidence of racially-polarized voting is critical to proving vote dilution, and clarified that “a bloc voting majority must *usually* be able to defeat candidates supported by a politically cohesive . . . minority group.”⁷ The Court defined “racial polarization” to exist where minority voters and white voters “vote differently.”⁸ In head-to-head contests involving two candidates, racial polarization is exhibited when a majority of the voters of one race would elect a different candidate than would the majority of voters of the other race. In such contests, Black cohesion, for example, is best measured by the extent of Black support for the Black-preferred candidate. In head-to-head contests with more than two candidates, racial polarization is exhibited when a majority/plurality of the voters of one race would elect a different candidate than would a majority/plurality of voters of the opposite race.⁹ Thus, racially-polarized voting analysis is important to determine (a) whether the community of minority voters at issue is politically cohesive, i.e., whether they vote for the same candidates, and (b) if White voters are voting sufficiently as a bloc to usually defeat minority-preferred candidates.

18. I analyzed 17 recent Board election contests in the District to determine if voting is racially-polarized. The voting patterns of White and minority voters must be estimated using

⁷ *Id.* at 49 (emphasis in original).

⁸ *Id.* at 53 n.21.

⁹ See Bernard Grofman, Michael Migalski, and Nicholas Noviello, “The ‘Totality of Circumstances Test’ in Section 2 of the 1982 Extension of the Voting Rights Act: A Social Science Perspective,” *Law & Policy* (1985). A Black-preferred candidate in a head-to-head contest with two candidates is the candidate who receives a majority of the Black votes. Determination of Black-preferred candidates in head-to-head contests with more than two candidates needs to be established on an election-specific basis because level of support for a candidate can change given the total number of candidates. Although receiving a majority of Black votes in contests with more than two candidates is not required for determination as a Black-preferred candidate, receiving a majority of Black votes would be an indication of substantial support from Black voters.

statistical techniques because direct information regarding how particular individuals voted is not available. To evaluate these voting patterns, I used three separate methods of statistical analysis, each of which has been repeatedly approved by the federal courts for use in vote dilution cases and are described in greater detail below. After performing statistical analyses, I gathered and analyzed contemporaneous news sources and demographic data on the composition of the East Ramapo student population to understand better the factual context in which the voting data were generated, and to assess the precision and accuracy of my quantitative analyses.

V. METHODOLOGY

A. Election and Census Data

19. The data used for this report consist of election returns for 17 contests for seats on the Board in elections from 2013 to 2017, and polling place census data by race. The voting data for these Board elections are publicly available on the District's website.¹⁰ Voting data on the 2012 general election for President of the United States were provided from the Rockland County Board of Elections. I was able to confirm the racial identification of candidates through articles published in the media. The census data were provided to me by William S. Cooper, Plaintiffs' demographic expert. Total citizen voting age population ("CVAP"), percent Latino CVAP, percent Black CVAP, and percent White CVAP by polling place are presented in Table 1.¹¹ Overall, for East Ramapo, CVAP was 9.4% Latino, 24.1% Black, and 60.5% White.

¹⁰ East Ramapo Central School District, Election Results - 2008 to Present, http://www.ercsd.org/pages/East_Ramapo_CSD/Departments/District_Clerk/Budget_Vote_and_Election_Information/Election_Results_-_2008_to_pr.

¹¹ CVAP percentages are based on U.S. Census Bureau American Community Survey (ACS) 2011-2015 sample estimates. CVAP percentages for Blacks and Whites are Non-Hispanic estimates.

B. Scope of Analyses

20. Of prime importance to a study of vote dilution is the analysis of “endogenous” elections, that is, elections using the precise election system on which Plaintiffs premise their vote dilution claim. In this case, endogenous elections are those for Board seats in the District. The most probative contests are the most recent contests and my preliminary report covers all 17 Board contests over the past five years, which includes the most recent contested election for all nine members of the Board as currently constituted.

21. Consistent with the analyses relied on by the Supreme Court in *Gingles*, I analyzed voter behavior and voting choices in the context of a number of interracial Board elections, *i.e.*, contests between White and non-White candidates. Contests with White and non-White candidates are most probative of racial bloc voting because they present voters with a racial choice. In *Gingles*, for example, the court looked only at Black-White contests. To present a more robust analysis that focuses on the expressly worded inquiry of Section 2 of the Voting Rights Act, *i.e.*, whether communities of color “have less opportunity than other members of the electorate . . . to elect representatives of their choice,” and not only on whether minority candidates can be elected to office, I also analyzed data from Board contests between two White candidates and between two minority candidates to determine whether the data exhibited racial preferences. To supplement my analyses of the Board contests, I also analyzed voting data from the 2012 election for U.S. President, which was an interracial contest.

C. Analytic Strategy

22. My analysis of racially-polarized voting, which considers both Black and Latino voter cohesion, and bloc voting of Whites, follows procedures recognized by the Supreme Court

in *Gingles* and in prevalent social science literature.¹² I employed three different methods of analysis, all of which are widely accepted in the field of voting analysis: (i) homogeneous precinct analysis (also known as extreme case analysis); (ii) the King ecological inference approach based on a maximum likelihood estimate methodology;¹³ and (iii) Goodman single-equation ecological regression.¹⁴ Each are described in further detail below.

23. **Homogeneous Precinct Analysis.** If there are precincts or polling places that are overwhelmingly composed of members of the same race, one can estimate the voting behavior of members of that group in those polling places. A standard criterion for a polling place to be considered homogeneous is 90% or more composition of one race. In East Ramapo, three of the 10 polling locations had 90% or more White CVAP: E01, Lime Kiln (90.2%); E03, Kakiat (92.7%); and E04, Ramapo High School (96.7%). There were no homogeneous Latino or Black

¹² See, e.g., Allan J. Lichtman and Laura Irwin Langbein, *Ecological Inference*, Sage Series on Quantitative Applications in Social Science (1978); Chandler Davidson, ed., *Minority Vote Dilution*, Washington D.C.: Howard University Press (1984); Richard L. Engstrom and Michael D. McDonald, “Quantitative Evidence in Vote Dilution Litigation: Political Participation and Polarized Voting,” *Urban Lawyer* (1985); James W. Loewen and Bernard Grofman, “Recent Developments in Methods Used in Voting Rights Litigation,” *Urban Lawyer* (1989); Allan J. Lichtman, “Passing the Test: Ecological Regression in the Los Angeles County Case and Beyond,” *Evaluation Review*, (1991); Bernard Grofman and Chandler Davidson, eds., *Controversies in Minority Voting: The Voting Rights Act in Perspective*, (1992); Bernard Grofman, Lisa Handley, and Richard G. Niemi, *Minority Representation and the Quest for Voting Equality*, Cambridge: Cambridge University Press, (1992); Allan J. Lichtman and J. Gerald Hebert, “A General Theory of Vote Dilution,” *La Raza Law Journal* (1993); Gary King, *A Solution to the Ecological Inference Problem*, Princeton: Princeton University Press (1997); J. Morgan Kousser, “Ecological Inference from Goodman to King,” *Historical Methods*, (Summer 2001); and Gary King, Ori Rosen, and Martin A. Tanner (eds.), *Ecological Inference: New Methodological Strategies*, Cambridge: Cambridge University Press (2004).

¹³ Gary King, *A Solution to the Ecological Inference Problem*, Princeton, NJ: Princeton University Press (1997).

¹⁴ Leo A. Goodman, “Ecological Regression and the Behavior of Individuals,” *American Sociological Review*, (1953); Leo A. Goodman, “Some Alternatives to Ecological Correlation,” *American Journal of Sociology*, (1959).

polling places in elections for Board seats. However, I also analyzed voting data from the 2012 U.S. Presidential election for which there were data from homogenous White and Black polling places available. There are several homogeneous precinct analysis (HPA) techniques; here, I used what is known as the “simple percentages” analysis.

24. For the polling places that were virtually all-White, the percentage of the vote for a candidate was an estimate of White votes for that candidate, i.e., all the votes for a candidate were deemed to come from White voters. For polling places that were virtually all-Black, the percentage of the vote for a candidate was an estimate of Black votes for that candidate, i.e., all the votes for a candidate were deemed to come from Black voters. Again, there were no polling places in East Ramapo that were virtually all-Latino. Methodologically, HPA has the advantage of being based directly on voter behavior and requires no statistical inference. However, there are statistical methods that make use of polling places that are racially mixed as well as those that are homogeneous. Both HPA and inferential statistical methods are useful and are accepted in the field of voting analysis.

25. **King Ecological Inference.** Bivariate ecological regression (BERA) (also known as “double regression”) was developed in the 1980s to make use of heterogeneous as well homogeneous precincts in assessing racial bloc voting (RBV). However, an issue inherent in BERA is out-of-bounds estimates, that is, estimates for a candidate’s support that exceed 100% or are less than 0%.

26. In the 1990s, Gary King, Ph.D. developed an ecological inference approach (EI) based on the method of bounds and a maximum likelihood methodology to estimate racial bloc

voting from aggregate data.¹⁵ Given the racial composition of a polling place and the percentage of votes a candidate received from that polling place, the method of bounds can be used to algebraically establish the maximum and minimum values of the proportion of a racial group of voters who voted for the candidate. King uses such logical minimum and maximum values as constraints for a maximum likelihood estimator program. Thus, RBV estimates with EI for a candidate range from 0% to 100%. King's maximum likelihood method identifies as RBV estimates those values of the model's statistical parameters that are most consistent with the election and census data. Additional advantages of EI are that estimates of RBV can be generated for each precinct or polling place, and that measures of the statistical accuracy of the estimates can be generated. EI has gained wide acceptance in the political literature and has been accepted by the courts.¹⁶

27. **Goodman Single-Equation Ecological Regression.** For all of the contested elections that I examined, the techniques described above were supplemented by the examination of correlation coefficients (r) and measures of statistical significance (p values). The squared correlation coefficient (R^2) measures the degree to which voting for competing candidates can be predicted by knowledge of the racial composition of precincts alone. The correlation used here is a measure of how consistently the racial composition of the precincts varies with the voter support for candidates in those precincts. For the correlation analysis, a single regression is preferred where the researcher seeks the association between the racial composition of the precincts and the

¹⁵ Gary King, *A Solution to the Ecological Inference Problem: Reconstructing Individual Behavior from Aggregate Data*, Princeton University Press (1997).

¹⁶ Baodong Liu, "EI Extended Model and the Fear of Ecological Fallacy," *Sociological Methods & Research* (2007); Bernard Grofman, "A Primer of Racial Bloc Voting," in Nathaniel Persily (ed.), *The Real Y2K Problem: Census 2000 Data and Redistricting Technology*, Brennan Center for Law and Justice, New York University (2000).

percentage of the votes cast for a candidate.¹⁷ The correlations reported in *Gingles* were obtained in this fashion. The value of the correlation coefficient r ranges from 0 to 1.0. Higher coefficients indicate more consistency and a greater tendency for the data points (polling places) to fall on a straight line. This analysis often is illustrated with a scattergram, where each point on the graph represents a polling place with the percentage of voters of one race and the percentage of votes for a candidate as the coordinates of a data point. In the behavioral sciences, a widely accepted set of criteria for the strength of correlations defines small effect, $r = .10$; medium effect, $r = .30$; large effect, $r = .50$.¹⁸ Analysts often rely on coefficients with values of about .30 and consider values of about .50 or greater as indicative of a strong association between variables.

28. Conventionally, social scientists usually accept as statistically significant results with a probability of less than .05 (corresponding to a probability of 5 in 100 to obtain the results under the chance hypothesis). However, if there are only a small number of precincts, no matter how strong the actual racial polarization, one may not be able to obtain a high level of statistical significance in the measurement of the degree of racial polarization. Adequate proof that race was a factor in a particular election may be shown either by a strong correlation, or by statistical significance.¹⁹

29. To test the hypothesis of no linear relationship between race of voters and candidate support, several equivalent statistics can be computed. I report the probability (p -value) associated with the analysis of variance which tests how well the correlation and regression model fit the data.

¹⁷ See James Loewen and Bernard Grofman, "Recent Developments in Methods Used in Voting Rights Litigation," *Urban Lawyer* (1989).

¹⁸ Jacob Cohen, *Statistical Power Analysis for the Behavioral Sciences* 79-81 (2d ed. 1988)

¹⁹ See, e.g., Grofman et al., The 'Totality of Circumstances Test', *supra* n. 9.

D. Supplemental Research

30. To research the factual context of each of the Board elections that I analyzed, I searched for and reviewed articles from a number of contemporaneous media reports, including articles from three publications that have been designated by the Board as official newspapers at various times since 2007: *The Journal News*, *Rockland County Times*, and *Hamodia*.²⁰ I also used Google to search for other articles and Internet postings regarding the East Ramapo Central School District Board elections. Because the endogenous elections are school board contests, I also reviewed demographic data on the student enrollment of both public and private schools affiliated with the District from the NYSED website. In addition, I reviewed the transcript of the September 12, 2014 episode of the NPR program, “This American Life.”²¹

VI. RESULTS OF ANALYSES

A. Method of Electing the Board

31. The District regularly elects a Board consisting of nine Members.²² The Members are elected at-large with no requirement that they reside in any particular area of the District.²³

²⁰ See, e.g., East Ramapo Central School District, Minutes of July 15, 2009 Regular Meeting of the Board of Education at 6334 (July 15, 2009), http://www.ercsd.org/pages/East_Ramapo_CSD/Board_of_Education/Minute_Archive (designating *The Journal News*, *Rockland County Times*, and *Hamodia* as official newspapers for the period of July 1, 2009 to June 30, 2010).

²¹ *This American Life: A Not-So-Simple Majority*, CHICAGO PUBLIC RADIO (Sept. 12, 2014), <http://www.thisamericanlife.org/radio-archives/episode/534/transcript>.

²² East Ramapo Central School District Policies § 2120 (Board Member Elections), http://www.ercsd.org/files/_vNK7T/_a937a7be0281f4043745a49013852ec4/2120_-_Board_Member_Elections.pdf.

²³ East Ramapo Central School District Policies § 2121 (Board Member Qualifications), http://www.ercsd.org/files/_vNK7T/_40838ce8aeab4a7f3745a49013852ec4/2121_-_Board_Member_Qualifications.pdf.

Elections take place on the third Tuesday of May.²⁴ The Members' three-year terms are staggered so that three Members are elected to office every year.²⁵ Members are elected according to numbered posts, that is, each candidate runs for one particular seat, but each seat is elected at-large.²⁶ Voters are permitted to cast one vote and only one vote for each seat.²⁷

B. 2017 Board Contests

32. There were three contests for seats on the Board during the May 16, 2017 election. A summary of the ecological inference (EI) and homogeneous precinct (HPA) racial bloc voting analyses is presented in Table 2. Correlation analysis results are displayed in Table 3.

33. Seat of Harry Grossman. EI results demonstrated that Eric Goodwin, a Black man,²⁸ was supported by 99.4% of Latino voters and 94.2% of Black voters. Thus, extremely large majorities of both Black and Latino voters supported Goodwin. EI results also demonstrated that 77.7% of White voters supported Harry Grossman, a White man.²⁹ HPA results showed that in the virtually all-White polling places, 90.6% of voters supported Grossman. Both EI and HPA results demonstrated that White voters preferred Grossman. Grossman won. For Grossman, there

²⁴ N.Y. EDUC. LAW § 2022.

²⁵ East Ramapo Central School District Policies § 2120 (Board Member Elections), *supra* note 22.

²⁶ East Ramapo Central School District Policies § 2120.1 (Candidates and Campaigning), http://www.ercsd.org/files/_vNK7T/_781d00554adb44c43745a49013852ec4/2120.1_-Candidates_and_Campaigning.pdf.

²⁷ A sample ballot from the May 2011 contest for seats on the Board posted on the District's prior website, instructs voters to "Vote for One" candidate for each numbered post. See "sample-ballot-final" available for download at <http://www.era.m.k12.ny.us/education/components/docmgr/default.php?sectiondetailid=36753&catfilter=904&PHPSESSID=843aa908f947c7966ee28d2f5127da35#showDoc>.

²⁸ Kimberly Redmond, *E. Ramapo: 3 Seats Up for Grabs on School Board*, THE JOURNAL NEWS, May 9, 2017, <http://www.lohud.com/story/news/education/2017/05/09/e-ramapo-school-board/314374001/> (printing photographs of four 2017 school board candidates).

²⁹ *Id.*

were strong negative correlations for Black ($r = -.54$) and Latino ($r = -.89$) voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased ($r = .71$).

34. Seat of Engel/Chajmovicz. EI results demonstrated that Chevon Dos Reis, a Latina woman,³⁰ was supported by 99.8% of Latino voters and 99.4% of Black voters. Thus, near-unanimous majorities of both Black and Latino voters supported Dos Reis. EI results indicated that 79.0% of White voters supported Joel Freilich, a White man.³¹ HPA results indicated that in the virtually all-White polling places, 91.1% of voters supported Freilich. Both EI and HPA results demonstrated that White voters preferred Freilich. Freilich won. For Freilich, there were strong negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

35. Seat of Moshe Hopstein. EI results demonstrated that candidate Alexandra Manigo, a White woman,³² was supported by 99.5% of Latino voters and 68.8% of Black voters. Thus, very large majorities of both Black and Latino voters supported Manigo. EI results indicated that

³⁰ *Id.*

³¹ *Id.*; Lucky Lou Production, *East Ramapo Wortham downplays Special Ed defici[encies]*, YouTube, <https://www.youtube.com/watch?v=2JrhMU3R-ec> (Oct. 3. 2017) (depicting on dais from audience left to right, Mark Bekowitz, Jacob Lefkowitz, Yonah Rothman, Pierre Germain, Deborah Wortham, Yehuda Weissmandl, Harry Grossman, Bernard Charles, Jr., Sabrina Charles-Pierre, Joel Freilich, attending the board meeting).

³² Redmond, *E. Ramapo: 3 Seats Up for Grabs on School Board*, *supra* n. 28.

77.4% of White voters supported Mark Berkowitz, a White man.³³ HPA results indicated that in the virtually all-White polling places 91.0% of voters supported Berkowitz. Thus, EI and HPA results indicated that White voters preferred Berkowitz. Berkowitz won. For Berkowitz, there were strong negative correlations for Latino and Black voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for White-preferred candidate Berkowitz decreased. In contrast, as the polling place percentage of White CVAP increased, support for Berkowitz increased.

36. Supplemental Evidence Regarding Circumstances of the 2017 Board Contests. In these three races, the three winning candidates and the losing candidates each received very similar vote totals and very similar degrees of support from racial groups, which indicates the existence of a common slate or endorsement. Contemporaneous news reports also indicate that the two sets of candidates were, in fact, backed by separate slates. Google searches for articles containing all of the names Grossman, Berkowitz, and Freilich, yielded a news report from May 9, 2017, one week prior to the May 16, 2017 Board election, noting that approximately 50 private school administrators had endorsed Grossman, Berkowitz, and Freilich.³⁴ Results derived from Google searches, including a public campaign Facebook page, titled “Manigo DosReis Goodwin for 2017

³³ *Id.*; Lucky Lou Production, *East Ramapo Wortham downplays Special Ed defici[encies]*, *supra* n. 31 (depicting on dais from audience left to right, Mark Bekowitz, Jacob Lefkowitz, Yonah Rothman, Pierre Germain, Deborah Wortham, Yehuda Weissmandl, Harry Grossman, Bernard Charles, Jr., Sabrina Charles-Pierre, Joel Freilich, attending the board meeting).

³⁴ Yochonon Donn, *Added Busing vs. Lower Tax Hike: Choice of East Ramapo Voters*, HAMODIA, May 9, 2017, <http://hamodia.com/2017/05/09/added-busing-vs-lower-tax-hike-choice-of-east-ramapo-voters/>; see also Yochonon Donn, *Community-Backed Candidates Win in East Ramapo; Budget Defeated*, HAMODIA, May 17, 2017, <http://hamodia.com/2017/05/17/community-backed-candidates-win-east-ramapo-budget-defeated/>.

East Ramapo School Board”³⁵ revealed that Goodwin, Dos Reis, and Manigo campaigned together and were endorsed by local public school advocates, including Strong East Ramapo and Power of Ten. According to NYSED data from the 2016-17 school year on the enrollment by race and ethnicity of public and nonpublic schools affiliated with East Ramapo, the student population of the public schools was 96% non-White, including 37% Black and 53% Latino, and the student population of the nonpublic schools was over 99% White.³⁶

37. 2017 Board Contests Summary. For all three 2017 Board contests, the coalition of Black and Latino voters was politically cohesive and the candidates preferred by Black and Latino voters were defeated by the White majority voting as a bloc. In the two interracial contests—Goodwin against Grossman and Dos Reis against Freilich—Black and Latino voters were nearly unanimous in their support for the two minority candidates while more than three-quarters of White voters supported the White candidates. In the remaining contest, Manigo was preferred by very large majorities of both Black and Latino voters, but she was defeated by a candidate who received more than three-quarters of White voters. My opinion that these statistical analyses

³⁵ Facebook, *Manigo DosReis Goodwin for 2017 East Ramapo School Board*, <https://www.facebook.com/ManigoDosReisGoodwin/>.

³⁶ N.Y. State Educ. Dep’t, Information and Reporting Services, *NonPublic School Enrollment*, <http://www.p12.nysed.gov/irs/statistics/nonpublic/> (last visited Nov. 19, 2017) (publishing annual data on “NonPublic Enrollment by Race/Ethnicity”). I calculated the enrollment of East Ramapo nonpublic schools based on schools identified with the BEDS code for East Ramapo—500402. See N.Y. State Educ. Dep’t, *East Ramapo CSD (Spring Valley) at a Glance*, <https://data.nysed.gov/profile.php?instid=800000039112> (publishing BEDS code for East Ramapo); N.Y. State Educ. Dep’t, *Interpretation of School BEDS Codes*, at 3-4, <http://www.p12.nysed.gov/irs/beds/Code%20Manual-2015-16/interpretation-bedsCodes.pdf> (providing key for interpreting BEDS codes for nonpublic schools). I excluded from the calculation of 2016-17 nonpublic enrollment by race/ethnicity, three nonpublic schools that identified 100% of their student bodies as multi-racial. I excluded these data from these three schools as very likely erroneous because they are so anomalous based on data from the previous several years as well as the statistical improbability of a school having 100% of its students identify as multiracial.

demonstrate racially-polarized voting is reinforced by other evidence showing that (a) candidates in the 2017 election ran as part of two opposing slates—one endorsed by the private school community and one endorsed by the public school community and (b) East Ramapo private school students are over 99% White and public school students are 90% Black and Latino, and 96% non-White overall, which provides context to the strongly polarized preferences of different racial groups.

C. 2016 Board Contests

38. Four seats on the Board were up for election during the May 17, 2016 election. Three of those elections were contested. A summary of the ecological inference (EI) and homogeneous precinct (HPA) racial bloc voting analyses is presented in Table 2. Correlation analysis results are displayed in Table 3.

39. Seat of Yehuda Weissmandl. EI results demonstrated that Natasha Morales, a Latina woman,³⁷ was supported by 99.2% of Latino voters and 99.2% of Black voters. Thus, extremely large majorities of both Black and Latino voters supported Morales. EI results indicated that 78.0% of White voters supported Yehuda Weissmandl, a White man.³⁸ HPA results indicated that in the virtually all-White polling places, 89.2% of voters supported Weissmandl. Both EI and HPA results demonstrated that White voters preferred Weissmandl. Weissmandl won. For Weissmandl, there were strong negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred

³⁷ Michael P. McKinney, *Slate of Four Candidates Campaign for East Ramapo BOE*, THE JOURNAL NEWS, Apr. 2, 2016, <http://www.lohud.com/story/news/local/rockland/ramapo/2016/04/02/east-ramapo-candidates-campaign/82557154/> (containing video of Morales).

³⁸ *East Ramapo's Tax-Cap Busting Calculation: Editorial*, THE JOURNAL NEWS, Apr. 28, 2017, <http://www.lohud.com/story/opinion/editorials/2017/04/28/east-ramapos-tax-cap-busting-editorial/100849174/> (printing pictures of Weissmandl).

candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

40. Seat of Bernard L. Charles, Jr. EI results demonstrated that Kim Foskew, a White woman,³⁹ was supported by 99.1% of Latino voters and 99.6% of Black voters. Thus, extremely large majorities of both Black and Latino voters supported Foskew. EI results indicated that 77.2% of White voters supported Bernard Charles, a Black man.⁴⁰ HPA results indicated that in the virtually all-White polling places, 89.8% of voters supported Charles. Both EI and HPA results demonstrated that White voters preferred Charles. Charles won. For Charles, there were strong negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

41. Seat of Pierre Germain. EI results demonstrated that Jean Fields, a Black woman,⁴¹ was supported by 99.5% of Latino voters and 99.2% of Black voters. Thus, extremely large majorities of both Black and Latino voters supported Fields. EI results indicated that 77.0% of White voters supported Pierre Germain, a Black man.⁴² HPA results indicated that in the virtually all-White polling places 89.3% of voters supported Germain. Both EI and HPA results demonstrated that White voters preferred Germain. Germain won. For Germain, there were strong

³⁹ McKinney, *supra* note 37 (containing video of Foskew).

⁴⁰ *East Ramapo's Tax-Cap Busting Calculation: Editorial*, *supra* note 38 (printing pictures of Bernard Charles).

⁴¹ McKinney, *supra* note 37 (containing video of Fields).

⁴² Mareesa Nicosia, *East Ramapo Trustee Disputes Board Chief on Monitor*, THE JOURNAL NEWS, June 18, 2014, <http://www.lohud.com/story/news/education/2014/06/18/trustee-disagrees-east-ramapo-monitor-response/10812833/> (printing picture of Pierre Germain).

negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

42. Seat of Sabrina Charles-Pierre. Sabrina Charles-Pierre, a Black woman⁴³ and an incumbent whom had been appointed to fill a vacancy in the previous term, ran unopposed.⁴⁴

43. Supplemental Evidence Regarding Circumstances of the 2016 Board Contests. In the three contested races, the three winning candidates and the losing candidates each received very similar vote totals and very similar degrees of support from racial groups, which indicates the existence of a common slate or endorsement. Contemporaneous news reports also indicate that the two sets of candidates were, in fact, backed by separate slates. Results derived from Google searches, including articles from *The Journal News*, revealed that Fields, Foskew, Morales, and Charles-Pierre campaigned together and were endorsed by local organizations advocating in favor of public schools,⁴⁵ including Strong East Ramapo and Power of Ten.

⁴³ McKinney, *supra* note 37 (containing video of Charles-Pierre).

⁴⁴ Kimberly Redmond, *Bill Passed to Restore 2-Year Term of East Ramapo Trustee*, THE JOURNAL NEWS, Jan. 18, 2017, <http://www.lohud.com/story/news/local/rockland/2017/01/18/sabrina-charles-pierre-term-east-ramapo-bill/96726176/> (noting that “[a]lthough Charles-Pierre ran unopposed for a two-year seat that expires in June 2018, the school board voted in late July 2016 to invalidate the term because she had not been sworn in within 30 days of the election results being certified”).

⁴⁵ *School Elections: 5 Takeaways*, THE JOURNAL NEWS, May 18, 2016, <http://www.lohud.com/story/news/education/2016/05/18/school-elections-5-takeaways/84529074/> (noting that Fields, Foskew, Morales, and Charles-Pierre “supported a full restoration of all-day kindergarten, more extracurricular programs for students and a curb in staffing cuts”).

44. An article published on the day after the May 2016 election identified Germain, Charles, and Weissmandl as receiving endorsements from the same organizations and leaders.⁴⁶

45. According to data from NYSED on the enrollment by race and ethnicity of public and nonpublic schools affiliated with East Ramapo from the 2015-16 school year, the student population of the public schools was 96% non-White, including 37% Black and 53% Latino, and the student population of the nonpublic schools was over 98% White.

46. 2016 Board Contests Summary. For the three contested 2016 Board seats, the coalition of Black and Latino voters was politically cohesive and the candidates preferred by Black and Latino voters were defeated by the White majority voting as a bloc. There were two interracial contests. In Morales against Weissmandl, Black and Latino voters were nearly unanimous in their support of Morales, the minority candidate, while more than three-quarters of White voters supported Weissmandl. The results were exactly opposite in the other interracial contest, Foskew against Charles, where Foskew, the White candidate, received the near unanimous support of Black and Latino voters, and Charles received support from a large majority of White voters and only about 1% of Black or Latino voters.

47. In the remaining contest, Fields, who was endorsed by public school advocates, was preferred by near unanimous majorities of both Black and Latino voters, but she was defeated by Charles, who received a large majority of White votes, and less than 1% of Black or Latino votes.

48. My conclusion that these quantitative analyses demonstrate racially-polarized voting is reinforced by other evidence showing that (a) candidates in the 2016 election ran as part of two opposing slates—one endorsed by the private school community and one endorsed by the

⁴⁶ *East Ramapo School Board Results*, HAMODIA, May 18, 2016, <http://hamodia.com/2016/05/18/east-ramapo-school-board-results/>.

public school community and (b) at that time, East Ramapo private school students were over 98% White and public school students were 90% Black and Latino, and 96% non-White overall.

D. 2015 Board Contests

49. There were contests for three seats on the Board during the May 19, 2015 election. A summary of the ecological inference (EI) and homogeneous precinct (HPA) racial bloc voting analyses is presented in Table 2. Correlation analysis results are displayed in Table 3.

50. Seat of Jacob Lefkowitz. EI results demonstrated that Sabrina Charles-Pierre, a Black woman, was supported by 64.2% of Latino voters and 74.6% of Black voters. Thus, large majorities of both Black and Latino voters supported Charles-Pierre. EI results indicated that 75.0% of White voters supported Jacob Lefkowitz, a White man.⁴⁷ HPA results indicated that in the virtually all-White polling places 86.2% of voters supported Lefkowitz. Both EI and HPA results demonstrated that White voters preferred Lefkowitz. Lefkowitz won. For Lefkowitz, there were strong negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

51. Seat of Yonah Rothman. EI results demonstrated that Natasha Morales, a Latina woman, was supported by 99.4% of Latino voters and 59.9% of Black voters. Thus, large

⁴⁷ Lucky Lou Production, *East Ramapo Appoints Sabrina Charles-Pierre*, YouTube, https://www.youtube.com/watch?v=1N_D64ptSDw (Oct. 19. 2015) (depicting on dais from audience left to right, Jacob Lefkowitz, Moshe Hopstein, Pierre Germain, Yonah Rothman, Yehuda Weissmandl, Harry Grossman, Yakov Engel, voting on appointment and attending swearing-in of Sabrina Charles-Pierre); *accord* East Ramapo Central School District, Minutes of October 19, 2015 Special Meeting of the Board of Education at 7739 (Oct. 19, 2015), http://www.ercsd.org/files/_KeIPG/_4213f42b1ed445e33745a49013852ec4/10-19-15_special_meeting_minutes.pdf.

majorities of both Black and Latino voters supported Morales. EI results indicated that 72.1% of White voters supported Yonah Rothman, a White man.⁴⁸ HPA results indicated that in the virtually all-White polling places, 86.9% of voters supported Rothman. Both EI and HPA results demonstrated that White voters preferred Rothman. Rothman won. For Rothman, there were strong negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

52. Seat of Eliah Solomon. EI results demonstrated that Steve White, a White man, was supported by 99.4% of Latino voters and 69.7% of Black voters. Thus, very large majorities of both Black and Latino voters supported candidate White. EI results indicated that 68.0% of White voters supported Juan Pablo Ramirez, a Latino man. HPA results indicated that in the virtually all-White polling places, 79.0% of voters supported Ramirez. Both EI and HPA results demonstrated that White voters preferred Ramirez. Ramirez won. For Ramirez, there were strong negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

53. Supplemental Evidence Regarding Circumstances of the 2015 Board Contests. In the three contested races, the three winning candidates and the losing candidates each received very similar vote totals and very similar degrees of support from racial groups, which indicates the

⁴⁸ *Id.*

existence of a common slate or endorsement. Contemporaneous publications indicate that the losing candidates were all part of a slate supported by advocates from the public school community. Google searches for their names yielded a May 19, 2015 post on the Power of Ten web site, which noted: “The Public School Candidates this year are: Sabrina Charles-Pierre, Natasha Morales, and Steve White,”⁴⁹ as well as a public Facebook page for their “Campaign Kickoff” event.⁵⁰ An October 19, 2015 article indicates that the winning candidates ran as part of a slate backed by the private school community.⁵¹ According to data from NYSED on the enrollment by race and ethnicity of public and nonpublic schools affiliated with East Ramapo from the 2014-15 school year, the student population of the public schools was 95% non-White, including 39% Black and 50% Latino, and the student population of the nonpublic schools were over 98% White.

54. 2015 Board Contests Summary. For the three contested 2015 member seats, the coalition of Black and Latino voters was politically cohesive and the candidates preferred by Black and Latino voters were defeated by the White majority voting as a bloc. There were interracial contests for all three seats. In Charles-Pierre against Lefkowitz, Charles-Pierre won very large majorities of both Black and Latino voters. In Morales against Rothman, a large majority of Black voters and nearly all Latino voters supported Morales, the minority candidate, while a very large majority of White voters supported Rothman, the White candidate.

⁴⁹ *Today: Vote! Rally in New City*, POWER OF TEN, May 19, 2015, <http://poweroften.us/2015/05/>.

⁵⁰ Facebook, *East Ramapo May 2015 Campaign Kickoff*, <https://www.facebook.com/events/1566389643642304/>.

⁵¹ Steve Lieberman, *East Ramapo Board of Education Appoints a New Trustee to Vacant Seat*, THE JOURNAL NEWS, Oct. 19, 2015, <http://www.lohud.com/story/news/local/rockland/2015/10/2/east-ramapo-board-education-appoints-new-trustee-vacant-seat/74233892/> (noting that “Juan Pablo Ramirez . . . ran on the three-member slate back[ed] by the religious community leaders that defeated Charles-Pierre and her two running mates”).

55. The results were exactly opposite in the other interracial contest, Ramirez against White. Steve White, who was (coincidentally) the White candidate, received the support of very large majorities of Black and Latino voters, and Ramirez, the Latino candidate, received support from a large majority of White voters, a small minority of Black voters, and less than 1% of Latino voters.

56. My conclusion that these quantitative analyses demonstrate racially-polarized voting is reinforced by evidence showing that (a) candidates in the 2015 election ran as part of two opposing slates and (b) East Ramapo private school students at the time were over 98% White and public school students were 89% Black and Latino, and 95% non-White overall.

E. 2014 Board Contests

57. Four seats on the Board were up for election on May 20, 2014 election. Candidates in all four races ran unopposed.

- i. Seat of Moshe Hopstein. Moshe Hopstein, a White man⁵² and an incumbent, ran unopposed.
- ii. Seat of David Wanounou. Harry Grossman, a White man and an incumbent, ran unopposed.
- iii. Seat of Yehuda Weissmandl. Yakov Engel, a White man,⁵³ ran unopposed.
- iv. Seat of Harry Grossman. Yehuda Weissmandl, a White man and incumbent, ran unopposed.

58. Supplemental Evidence Regarding Circumstances of the 2014 Board Contests.

Google searches and searches in the archives of local newspapers revealed almost zero mentions

⁵² Lucky Lou Production, *East Ramapo Appoints Sabrina Charles-Pierre*, *supra* n. 47.

⁵³ *Id.*

of the May 2014 Board election or its candidates. With the exception of official notices, the only contemporaneous coverage of the May 2014 board election appears in an episode of the NPR program, “This American Life,” titled “A Not-So-Simple Majority” and produced by Ben Calhoun, which examined the recent history of the District through a series of interviews, which included an interview at a polling location on the day of the May 2014 election with Steve White, a local public school activist and Board candidate in 2008 and 2015. Mr. Calhoun reported:

I stood in the booth with him as he wrote in Governor Cuomo three times for the East Ramapo school board. He had to do that because, for the first time since all this started, there were no public school candidates running. After years of not winning a single race, the public school crowd failed to recruit anybody to run. During much of this fight, Steve was kind of the field general for the public school side. We stood outside his polling place, where, in recent years, he says there were huge lines. But today, there was no one. We were the only two people on the sidewalk.⁵⁴

59. According to data from NYSED, during the 2013-14 school year, the student population of East Ramapo public schools was 95% non-White, including 43% Black and 46% Latino, and the student population of nonpublic schools in the District was approximately 98-99% White.⁵⁵

60. 2014 Board Contests Summary. Elections for all four seats were uncontested. Based on the available qualitative data, the public school community, whose constituency is invested in a student population that is overwhelmingly Black and Latino, did not field candidates due to years of electoral futility against candidates from the private school community, whose constituency is invested in a student population almost exclusively White.

⁵⁴ *A Not-So-Simple Majority*, *supra* note 21.

⁵⁵ The NYSED nonpublic school data from this year contains four anomalous entries including two schools that identified 100% of their students as American Indian/Alaska Native and multiracial, respectively, as well as two entries that contained non-numeric values in certain entries. I excluded these schools from this calculation.

F. 2013 Board Contests

There were contests for three seats on the Board during the May 19, 2013 election. A summary of the ecological inference (EI) and homogeneous precinct (HPA) racial bloc voting analyses is presented in Table 2. Correlation analysis results are displayed in Table 3.

61. Seat of Moses Friedman. EI results demonstrated that Margaret Tuck, a Black woman, was supported by 99.6% of Latino voters and 29.3% of Black voters. EI results indicated that 69.2% of White voters supported MaraLuz Corado, a Latina woman. HPA results indicated that in the virtually all-White polling places, 84.9% of voters supported Corado. Both EI and HPA results demonstrated that White voters preferred Corado. Corado won. For Corado, there were strong negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

62. Seat of Nathan Losman. EI results demonstrated that Eustache Clerveaux was supported by 99.5% of Latino voters and 7.6% of Black voters. EI results indicated that 69.0% of White voters supported Pierre Germain. HPA results indicated that in the virtually all-White polling places, 86.0% of voters supported Germain. Both EI and HPA results demonstrated that White voters preferred Germain. Germain won. For Germain, there were strong negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

63. Seat of Bernard L. Charles, Jr. EI results demonstrated that Robert Forrest, a Black man, was supported by 99.4% of Latino voters and 10.6% of Black voters. EI results indicated that 68.7% of White voters supported Bernard Charles, a Black man. HPA results indicated that in the virtually all-White polling places, 85.2% of voters supported Charles. Both EI and HPA results demonstrated that White voters preferred Charles. Charles won. For Charles, there were strong negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

64. Supplemental Evidence Regarding Circumstances of the 2013 Board Contests. In these three races, the three winning candidates and the losing candidates each received very similar vote totals, indicating the candidates ran together on a slate or with common endorsements. Contemporaneous news reports also indicate that the two sets of candidates were, in fact, backed by separate slates and voting blocs. A May 9, 2013 article in *The Journal News* reported that three of the six candidates running for the Board turned down invitations to a public forum hosted by the Spring Valley chapter of the NAACP that aimed to introduce candidates to the public. The article stated that “Bernard Charles told the NAACP that he and his running mates won’t participate in the event” and that “Charles, MaraLuz Corado, and Pierre Germain are running together for three open seats.”⁵⁶ A May 19, 2013 article identified Forrest, Tuck, and Clerveaux as “running with the support of the Save Our Schools Coalition, a group of activists who advocate

⁵⁶ Mareesa Nicosia, *3 E. Ramapo Candidates Reject NAACP Invite: Charles, Corado, Germain Turn Down Chance to Speak at Public Forum*, THE JOURNAL NEWS, May 9, 2013.

for the interests of East Ramapo's 9,000 public-school students.”⁵⁷ Forrest and Tuck were also identified as parents of East Ramapo public school students and/or graduates.⁵⁸ The article noted that Forrest, Tuck, and Clerveaux were “opposed by Bernard Charles, MaraLuz Corado and Pierre Germain, who have the backing of the South East Ramapo Taxpayers Association (SERTA),” a group led by Mr. Kalman Weber.⁵⁹ In a 2015 letter to the editor of *The Journal News*, Mr. Weber wrote: “As the head of South East Ramapo Taxpayers Association, I can tell you we bring out the bloc vote . . .”⁶⁰ An August 12, 2007 profile of Mr. Weber and SERTA identified Mr. Weber as a philanthropist who made substantial donations to private religious schools, and whose political organization focused on “campaigns for lower school taxes.”⁶¹ *The Journal News* noted that “SERTA had not registered with the government as a nonprofit corporation,” and quoted Mr. Weber as stating, “We are intentionally not registered anywhere. . . . We don’t want any people checking up on us.”⁶²

65. In the aftermath of the 2013 election, contemporaneous accounts identified certain circumstances that shed light on the preferences of Black and Latino voters. In a letter to the editor of *The Rockland Times*, published days after the May 2013 election, Peggy Hatton, who is

⁵⁷ Mareesa Nicosia, *2 Slates Seek 3 Seats in E. Ramapo Election*, THE JOURNAL NEWS, May 19, 2013, at 13A.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Kalman Weber, *View: East Ramapo school board works for all kids*, THE JOURNAL NEWS, Oct. 18, 2015, <http://www.lohud.com/story/opinion/contributors/2015/10/18/view-east-ramapo-school-board-works-all-kids/73861074/>.

⁶¹ Alice Gomstyn, *Leader of Taxpayers Group Likes to Keep Privacy*, THE JOURNAL NEWS, Aug. 12, 2007, at 11A.

⁶² *Id.*

identified as a public school “parent and education activist” in East Ramapo,⁶³ observed that there were six candidates of color in the 2013 election, but “three candidates did not reach out to the public at all [and] [t]he one thing we knew about Charles, Germain and Corado, was that their campaign was being backed by Kalman Weber’s South East [Ramapo] Taxpayers Association[.]”⁶⁴ Ms. Hatton noted that Charles, Germain, and Corado “skipped the NAACP candidates forum” and that Mr. Charles chose instead to attend a rally in the private school community at that time.⁶⁵ Ms. Hatton also pointed that “the public school community was suspicious of [Charles, Germain, and Corado] because they refused to return calls to the press and made implausible promises to restore almost every program cut over the past five years without any specific plans.”⁶⁶ Finally, Ms. Hatton wrote that Forrest, Clerveaux, and Tuck “won by large margins in the polling locations not controlled by the bloc[.]”⁶⁷ In a letter to the editor responding to Ms. Hatton’s letter, Yehuda Weissmandl, President of the Board, pointed out the futility of public school activists opposing the private school voting bloc:

Ms. Hatton has been complaining about the [District] election results for several years. Hatton’s problem is that none of her chosen candidates can get enough votes to get elected. Each year, the district’s voters choose other than Hatton-favored representation for the School Board. And then, of course, Hatton complains. In what has now become a yearly dance, Hatton and a group of other self-appointed “community activists” search for and promote a slate of candidates for available seats on the East Ramapo School

⁶³ David Knowles, *VIDEO: East Ramapo District School Board Lawyer Christopher Kirby Launches Into Profanity-Laced Tirade at Parents*, N.Y. DAILY NEWS, July 3, 2013, <http://www.nydailynews.com/news/national/video-school-board-lawyer-flips-parents-article-1.1389526>.

⁶⁴ *Letter to the Editor: Hatton Not Happy with E. Ramapo Vote*, THE ROCKLAND TIMES, May 23, 2013, <http://www.rocklandtimes.com/2013/05/23/letter-to-the-editor-hatton-not-happy-with-e-ramapo-vote/>.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

Board, and then Hatton and her “activist” friends campaign for her candidates on a promise of change and of a renewed commitment to the educational well-being of the school system. Her candidates routinely lose.⁶⁸

66. Mr. Weissmandl’s letter to the editor is consistent with Mr. Calhoun’s reporting for Chicago Public Radio in noting the persistent electoral futility of the public school slate.

67. According to data from NYSED on the enrollment by race and ethnicity of public and nonpublic schools affiliated with East Ramapo from the 2012-13 school year, the student population of the public schools was 95% non-White, including 47% Black and 41% Latino. For the most proximate year for which data on the student enrollment by race of nonpublic schools is available (2013-2014), East Ramapo’s private school population was over 98% White.

68. 2013 Board Contests Summary. All three contests in this election were between two minority candidates. For the three 2013 board seats, the Latino-preferred candidates were defeated. Correlations for Black and Latino voters indicated that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. However, EI results indicated that Black-preferred and White-preferred candidates were successful.

69. The supplemental evidence suggests Black and Latino voters preferred the losing candidates. Given the polarized racial composition of the public and private schools at that time, the publicized endorsements of Save Our Schools and SERTA; and Ms. Hatton’s observations about the decisions of Germain, Charles, and Corado not to campaign in public or to attend a candidate forum within the minority community; the evidence suggests that minority voters in the

⁶⁸ *East Ramapo Board President says Activist Cause is Old News*, ROCKLAND COUNTY TIMES, May 24, 2013, <http://www.rocklandtimes.com/2013/05/24/east-ramapo-board-president-says-hatton-is-old-news/>

District would have been likely to prefer the candidates on the public school slate. However, the private school slate's messaging, as reported by Ms. Hatton, as well as the fact that all six candidates were Black or Latino, could have caused some Black voters to vote for the private school slate.

70. Summary of 2013-2017 Board Contests. The most probative elections are recent endogenous contests, that is, recent elections using the election system on which Plaintiffs premise their vote dilution claim. In this case, endogenous elections are those for seats on the Board. Of the nine contested Board elections since 2015, all were racially polarized with a coalition of Black and Latino voters coalescing around the same candidates. In each of nine contests, the candidates preferred by very large majorities Black and Latino voters were defeated by the White majority voting as a bloc. In 2014, there were no contested Board elections.

71. In 2013, the year prior to the uncontested elections, the three contests were racially polarized between Latino and White voters. Candidates preferred by Latino voters lost. The evidence is inconclusive as to whether Germain and Charles were Black-preferred candidates when they ran for election in 2013; however, for re-election in 2016, they each received support from less than 1.5% of Black and Latino voters.

72. In every contested election since 2013, winning candidates were members of the slate supported by the private school community and losing candidates were members of the slate supported by the public school community. During this time, private schools in the District have been attended by White students almost exclusively, while the student population of the District's public schools was overwhelmingly Black and Latino.

G. 2012 General Election for U.S. President

73. To supplement the analyses of the Board elections, I analyzed the 2012 General Election for U.S. President. Although not as probative as endogenous contests, analysis of this exogenous contest can provide estimates of cohesion for a large number of voters in an interracial contest: a total of 24,486 voters were included in the analysis. The unit of analysis for these estimates is election district (ED) rather than polling place. Only EDs totally within the boundaries of East Ramapo were included in the analyses and represent 82.2% of the total CVAP for the District. A summary of EI and HPA results is displayed in Table 4a. EI results demonstrated that Barack Obama was supported by 76.0% of Latino and 93.0% of Black voters. Thus, very large majorities of both Black and Latino voters supported Obama. EI results showed that 71.3% of White voters supported Mitt Romney. HPA results were consistent with EI results: 97.2% of voters in the virtually all-Black EDs supported Obama while 86.0% of voters in the virtually all-White EDs supported Romney.

74. Correlation results are presented in Table 4b. For Romney, there were strong negative correlations for Black and Latino voters indicating that as the polling place percentage of Black and Latino CVAP increased, support for the White-preferred candidate decreased. In contrast, as the polling place percentage of White CVAP increased, support for the White-preferred candidate increased.

75. In summary, as with the 2015, 2016, and 2017 Board elections, for East Ramapo voters the 2012 U.S. President election was racially polarized with a coalition of Black and Latino voters coalescing around Obama and with White voters supporting Romney.

VII. CONCLUSIONS

76. The most probative elections are recent endogenous contests, that is, recent elections using the election system on which Plaintiffs premise their vote dilution claim. In this case, endogenous elections are those for Board seats. Of the nine contested Board elections since 2015, all were racially polarized, with a coalition of Black and Latino voters coalescing around the same candidates. In each of nine contests, the candidates preferred by Black and Latino voters were defeated by the White majority voting as a bloc. In 2014, there were no contested Board elections and supplemental evidence indicates that these elections were uncontested at least in part because the public school slate had experienced persistent electoral futility. In 2013, the three contests were racially polarized between Latino and White voters. Candidates preferred by Latino voters lost. These losing candidates were supported by the public school slate. In every contested election since 2013, winning Board candidates were members of the slate supported by the private school community and losing candidates were members of the slate supported by the public school community. Throughout this time period, private schools in the District have been attended by White students almost exclusively, while the student population of the District's public schools was overwhelmingly Black and Latino.

77. Analysis of Board contests was supplemented with an analysis of the 2012 U.S. General Election for President. As with the 2015, 2016, and 2017 Board elections, for East Ramapo voters, the 2012 general election for U.S. President was racially polarized with a coalition of Black and Latino voters coalescing around Obama, and with White voters supporting Romney.

78. Current Board members Pierre Germain and Bernard Charles, Jr. are not Black-preferred or Latino-preferred candidates. The weight of evidence from the 2013 election indicates that Germain and Charles were not likely Black- or Latino-preferred candidates in that election.

Correlation analysis and supplemental evidence indicate that Germain and Charles were not minority-preferred candidates in 2013; however, the EI analysis leaves open the possibility that those candidates received support from Black voters, notwithstanding their endorsement by a key slating organization from the private school community and lack of public campaigning. But all of the data from their re-election bid demonstrates that even if Germain and Charles were Black-preferred candidates in 2013, they were emphatically not the preferred candidates of either Black or Latino voters in 2016.

79. Juan Pablo Ramirez was not a Black- or Latino-preferred candidate when he was elected in 2015. All of the quantitative analyses and supplemental evidence demonstrates that he was elected with the support of White voters, and not minority voters.

80. MaraLuz Corado was not a Latino-preferred candidate when she was elected in 2013. All of the quantitative analyses and supplemental evidence demonstrates that she was elected without the support of Latino voters. Ms. Corado was unequivocally the preferred candidate of White voters. The evidence is ambiguous as to whether Ms. Corado was elected as a Black-preferred candidate, but the weight of evidence suggests that it is unlikely. The correlation analysis and supplemental evidence indicate that Ms. Corado was not Black-preferred; however, the EI indicates that she may have received support from Black voters.

81. In summary, Black voters are politically cohesive, and the coalition of Black and Latino voters in East Ramapo are politically cohesive in that their members usually vote together, and Board candidates preferred by Black and Latino voters in the District are usually defeated by the White majority voting as a bloc.

#

I reserve the right to continue to supplement my report in light of additional facts, testimony and/or materials that may come to light.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on December 7, 2017

Steven P. Cole

STEVEN P. COLE

Table 1
East Ramapo School District Census Estimates*

	Poll	Poll Location	Total CVAP	Latino CVAP%	NH Black CVAP%	NH White CVAP%
1	E01	Lime Kiln	4066.49	5.77%	1.35%	90.22%
2	E02	Summit Park	5661.93	12.49%	16.26%	59.15%
3	E03	Kakiat	6175.87	1.19%	5.62%	92.72%
4	E04	Ramapo HS	5405.08	1.95%	0.40%	96.74%
5	E05	Hillcrest	6999.50	7.23%	31.53%	55.17%
6	E06	Kurtz Center	8966.21	16.20%	51.25%	23.19%
7	E07	Spring Valley	10096.54	9.72%	27.08%	60.51%
8	E08	Margetts	2929.00	12.88%	13.03%	71.64%
9	E09	Chestnut Ridge	3889.35	10.90%	19.29%	61.62%
10	E10	Hempstead	6132.52	13.08%	41.58%	31.86%
Total Sum			60322.49			

*ACS 2011-2015

Table 2
East Ramapo Board of Education
Member Elections 2013-2017

**Summary of Ecological Inference and Homogeneous Precinct Racial Bloc
Voting Analyses**

Seat/Candidates	EI	EI	% NH White Voters Voting for Candidate HPA		Votes
			% Latino Voters	% Black Voters	
May 16, 2017					
Seat of Moshe Hopstein					
Mark Berkowitz (W)	0.5	36.5	77.4	91.0	9,075
Alexandra K. Manigo (W)	99.5	68.8	23.5	9.0	4,922
Seat of Harry Grossman					
Harry Grossman (W)	0.4	7.6	77.7	90.6	9,055
Eric Goodwin (B)	99.4	94.2	22.5	9.4	4,871
Seat of Vacant /Engel/Chajmovicz					
Joel Freilich (W)	0.5	3.4	79.0	91.1	9,441
Chevon Dos Reis (L)	99.8	99.4	20.8	8.9	4,470

Notes:

School District CVAP

Latino = 9.4%
 NH Black = 24.1%
 NH White = 60.5%

Abbreviations:

CVAP: Citizen Voting Age Population

NH: Non-Hispanic

W: White

B: Black

L: Latino/a

EI: Kings' Ecological Inference Analysis

HPA: Homogeneous Precinct Analysis For %NH White, polling places with > 90% NH White CVAP

Table 2 (cont.)**East Ramapo Board of Education****Member Elections 2013-2017****Summary of EI and HPA Racial Bloc Voting Analyses**

Seat/Candidates	% Latino Voters		% NH Black Voters		% NH White Voters Voting for Candidate	Votes
	EI	EI	EI	HPA		
May 17, 2016						
Seat of Bernard L. Charles Jr.						
Bernard L. Charles, Jr. (B)	1.2		1.4		77.2	89.8
Kim A. Foskew (W)	99.1		99.6		23.0	10.2
Seat of Pierre Germain						
Pierre Germain (B)	0.4		0.9		77.0	89.3
Jean E. Fields (B)	99.5		99.2		23.4	10.7
Seat of Yehuda Weissmandl						
Yehuda Weissmandl (W)	0.5		0.6		78.0	89.2
Natashia E. Morales (L)	99.2		99.2		24.4	10.8
Seat of Sabrina Charles-Pierre						
Sabrina Charles-Pierre						5,014
Unopposed						
May 19, 2015						
Seat of Jacob Lefkowitz						
Jacob L. Lefkowitz (W)	0.7		36.2		75.0	86.2
Sabrina Charles-Pierre (B)	64.2		74.6		23.5	11.2
Alan Keith Jones (B)	*		3.6		2.6	2.6
Seat of Yonah Rothman						
Yonah Rothman (W)	0.5		40.0		72.1	86.9
Natasha Morales (L)	99.4		59.9		28.1	13.1
Seat of Eliah Solomon						
Juan Pablo Ramirez (L)	0.3		26.5		68.0	79.0
Steve D. White (W)	99.4		69.7		25.2	11.8
Yisroel Eisenbach (W)	*		5.0		6.0	9.2
						556

Notes: *Indeterminate

Table 2 (cont.)**East Ramapo Board of Education****Member Elections 2013-2017****Summary of EI and HPA Racial Bloc Voting Analyses**

Seat/Candidates	% Latino Voters Voting for Candidate	EI	% NH Black Voters Voting for Candidate	EI	% NH White Voters Voting for Candidate	EI	HPA	Votes
May 20, 2014								
Seat of Moshe Hopstein								
Moshe Hopstein								2,388
Unopposed								
Seat of David Wanounou (Daniel Schwartz)								
Harry Grossman (W)								2,652
Unopposed								
Seat of Yehuda Weissmandl								
Yakov Engel (W)								2,381
Unopposed								
Seat of Harry Grossman (MaraLuz Corado)								
Yehudat Weissmandl (W)								2,379
Unopposed								
May 21, 2013								
Seat of Moses Friedman								
MaraLuz Corado (L)	0.5	73.9	69.2	84.9	6,806			
Margaret Tuck (AA)	99.6	29.3	30.5	15.1	5,244			
Seat of Nathan Losman								
Pierre Germain (HA)	0.4	91.8	69.0	86.0	6,899			
Eustache Clerveaux (HA)	99.5	7.6	30.2	14.0	5,085			
Seat of Bernard L. Charles, Jr.								
Bernard L. Charles, Jr. (AA)	0.6	89.7	68.7	85.2	6,833			
Robert Forrest (AA)	99.4	10.6	31.6	14.8	5,175			

Table 3
East Ramapo Board of Education
Member Elections 2013-2017
Summary of Correlation Analyses

Seat/Candidates	% Latino Voters		% NH Black Voters		% NH White Voters		Votes
	Voting for Candidate	r	Voting for Candidate	r	Voting for Candidate	r	
May 16, 2017							
Seat of Moshe Hopstein							
Mark Berkowitz (W)	-.89	.001	-.54	.108	.72	.020	9,075
Alexandra K. Manigo (W)	.89	.001	.54	.108	-.72	.020	4,964
Seat of Harry Grossman							
Harry Grossman (W)	-.89	.001	-.54	.111	.71	.020	9,055
Eric Goodwin (AA)	.89	.001	.54	.111	-.71	.020	4,871
Seat of Vacant/Engel/Chajmovicz							
Joel Freilich (W)	-.86	.001	-.49	.155	.67	.033	9,441
Chevon Dos Reis (Latina)	.86	.001	.49	.155	-.67	.033	4,470

Table 3 (cont.)**East Ramapo Board of Education****Member Elections 2013-2017****Summary of Correlation Analyses**

Seat/Candidates	% Latino Voters		% NH Black Voters		% NH White Voters		Votes
	r	p	r	p	r	p	
May 17, 2016							
Seat of Bernard L. Charles Jr.							
Bernard L. Charles, Jr. (AA)	-.83	.003	-.44	.200	.64	.047	7,973
Kim A. Foskew (W)	.83	.003	.44	.200	-.64	.047	3,972
Seat of Pierre Germain							
Pierre Germain (Haitian A)	-.85	.002	-.47	.170	.66	.038	7,860
Jean E. Fields (AA)	.85	.002	.47	.170	-.66	.038	4,137
Seat of Yehuda Weissmandl							
Yehuda Weissmandl (W)	-.88	.001	-.53	.118	.71	.022	7,626
Natasha E. Morales (L PR)	.88	.001	.53	.118	-.71	.022	4,401
May 19, 2015							
Seat of Jacob Lefkowitz							
Jacob L. Lefkowitz (W)	-.91	<.001	-.55	.101	.72	.018	6,380
Sabrina Charles-Pierre (HA)	.91	<.001	.57	.089	-.74	.015	4,600
Alan Keith Jones (AA)	.77	.011	.24	.500	-.42	.227	468
Seat of Yonah Rothman							
Yonah Rothman (W)	-.90	<.001	-.54	.110	.72	.020	6,523
Natasha Morales (L PR)	.90	<.001	.54	.110	-.72	.020	4,864
Seat of Eliahu Solomon							
Juan Pablo Ramirez (L)	-.88	.001	-.50	.142	.68	.031	6,293
Steve D. White (W)	.91	<.001	.57	.088	-.74	.015	4,615
Yisroel Eisenbach (W)	-.58	.076	-.64	.045	-.74	.015	556
Seat of Sabrina Charles-Pierre							
Sabrina Charles-Pierre Unopposed							5,014

Table 3 (cont.)**East Ramapo Board of Education****Member Elections 2013-2017****Summary of Correlation Analyses**

Seat/Candidates May 20, 2014	% Latino Voters		% NH Black Voters		% NH White Voters		Votes
	r	p	r	p	r	p	
Seat of Moshe Hopstein							
Moshe Hopstein Unopposed							2,388
Seat of David Wanounou							
(Daniel Schwartz)							
Harry Grossman (W) Unopposed							2,652
Seat of Yehuda Weissmandl							
Yakov Engel (W) Unopposed							2,381
Seat of Harry Grossman							
(MaraLuz Corado)							
Yehudat Weissmandl (W) Unopposed							2,379
May 21, 2013							
Seat of Moses Friedman							
MaraLuz Corado (L)	-.91	<.001	-.54	.108	.71	.021	6,806
Margaret Tuck (AA)	.91	<.001	.54	.108	-.71	.021	5,244
Seat of Nathan Losman							
Pierre Germain (HA)	-.90	<.001	-.52	.122	.70	.024	6,899
Eustace Clerveaux (HA)	.90	<.001	.52	.122	-.70	.024	5,085

Seat/Candidates	% Latino Voters		% NH Black Voters		% NH White Voters		Votes
	Voting for Candidate	<i>r</i>	Voting for Candidate	<i>r</i>	Voting for Candidate	<i>r</i>	
Seat of Bernard L. Charles, Jr.							
Bernard L. Charles, Jr. (AA)		-.89		.001		-.50	
Robert Forrest (AA)		.89		.001		.50	
						.142	
						.68	
						-.68	
						.030	
							6,833
							5,175

Table 4a
East Ramapo School District Voters¹
2012 U.S. Presidential General Election
Summary of Racial Bloc Voting Analyses

Seat/Candidates	% Latino Voters Voting for Candidate ²		% NH Black Voters Voting for Candidate		% NH White Voters Voting for Candidate		Votes
	EI	HPA	EI	HPA	EI	HPA	
November 6, 2012							
U.S. President							
Barack Obama (AA)	76.0	93.0	97.2		27.5	13.3	13,806
Mitt Romney (W)	24.1	6.2	2.6		71.3	86.0	10,680

¹ Election districts totally within East Ramapo School District boundaries.

² Estimates based on total of all Presidential candidates.

Notes:

EI: Kings' Ecological Inference Analysis

HPA: Homogeneous Precinct Analysis

Example, for %NH White, polling places with $\geq 90\%$ NH White CVAP

Table 4b
Summary of Correlation Analyses

Seat/Candidates	% Latino Voters Voting for Candidate		% NH Black Voters Voting for Candidate		% NH White Voters Voting for Candidate	
	r	p	r	p	r	p
U.S. President						
Barak Obama (AA)	.49	<.001	.87	<.001	-.93	<.001
Mitt Romney (W)	-.49	<.001	-.87	<.001	.93	<.001